

Decision No. 29537

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
 of COLBERG & COLBERG, doing business  
 under the name of CENTRAL TRANSIT  
 COMPANY, as lessor, for authority  
 to lease to JOHN J. DAVISON, as  
 lessee, those certain operating  
 rights issued and created by  
 Decision No. 15270 in Application  
 No. 10734.

Application No. 21012

BY THE COMMISSION:

ORIGINAL

O P I N I O N

W. C. Colberg and H. J. Colberg co-partners, operating under the name and style of Central Transit Company, have petitioned the Railroad Commission for an order approving the lease by them to John J. Davison of an operating right for the automotive transportation as a common carrier of passengers and property between Stockton and Terminus and intermediate points; and John J. Davison has petitioned for authority to lease and acquire said operating right and to hereafter operate thereunder, the lease to be in accordance with an agreement, a copy of which, marked Exhibit "A", is attached to the application herein and made a part thereof.

Under said lease agreement lessee John J. Davison agrees and stipulates to pay to lessors W. C. Colberg and H. J. Colberg the sum of \$120 per year, payable \$10 per month on the first day of each and every calendar month after said lease shall take effect.

This lease shall take effect immediately upon approval by the Railroad Commission and shall be for a term of one (1) year from date of said approval and subject to extension by mutual agreement of the parties made in writing and signed and filed with the Railroad Commission at least thirty (30) days before the termination of the first term of one (1) year or any extension or extensions of said term.

The operating right herein proposed to be leased was created by Decision No. 15270, dated August 10, 1925, on Application No. 10734.

This appears to be a matter in which a public hearing is not necessary. The application will be granted.

John J. Davison is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

#### O R D E R

IT IS HEREBY ORDERED that the above entitled application be, and the same is hereby granted, subject to the following conditions:

1. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission, or any other rate fixing body, as a measure of value of said property for rate fixing, or for any purpose other than the transfer herein authorized.

2. Applicants W. C. Colberg and H. J. Colberg shall within twenty (20) days after the effective date of the order herein unite with applicant John J. Davison in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicants W. C. Colberg and H. J. Colberg withdrawing and applicant John J. Davison accepting and establishing such tariffs and all effective supplements thereto.

3. Applicants W. C. Colberg and H. J. Colberg shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in their names with the Railroad Commission and applicant John J. Davison shall within twenty (20) days after the effective date of the order herein file, in duplicate, in his own name time schedules covering service heretofore given by applicants W. C. Colberg and H. J. Colberg which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicants W. C. Colberg and H. J. Colberg or time schedules satisfactory to the Railroad Commission.

4. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been obtained.

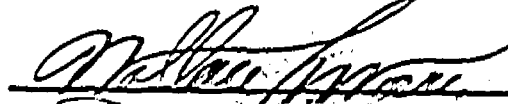


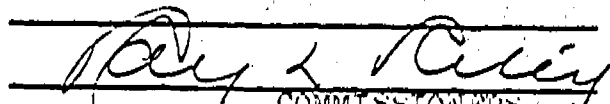
5. No vehicle may be operated by applicant John J. Davison unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

6. The authority herein granted to sell and transfer the right and/or property shall lapse and be void if the parties hereto shall not have complied with all the conditions within the periods of time fixed herein unless, for good cause shown, the time shall be extended by further order of the Commission.

7. Applicant shall, prior to the commencement of service authorized herein and continuously thereafter, comply with all of the provisions of this Commission's General Order No. 91.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 13<sup>th</sup> day of February, 1937.

  
  
  
  
COMMISSIONERS.